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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,713	12/05/2003	Annette D. Bravard	P052444US00	2666
27139	7590	06/01/2005	EXAMINER	
MCKEE, VOORHEES & SEASE, P.L.C. ATTN: MAYTAG 801 GRAND AVENUE, SUITE 3200 DES MOINES, IA 50309-2721			SOOHOO, TONY GLEN	
			ART UNIT	PAPER NUMBER
			1723	

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/729,713

Applicant(s)

BRAVARD ET AL.

Examiner

Tony G. Soohoo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12-5-03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim interpretation

1. Claims 1-22 are directed to a blender jar subcombination with intended use “for use on an electrical blender having a base with a motor, and a knife rotatable by the motor” or “for use with a blender”. Accordingly, the issues with regard to a blender base, motor, or knife rotatable by the motor has been afforded little patentable distinction to the subcombination of the jar itself. It is noted that the claimed subject matter of the subcombination blender jar does not structurally distinguish the jar invention as being particularly directed base blender with knives. Whereas the blender jar does not claim such as a particular recitation of having a mount for a knife upon the jar body, such issues to the intended use does not structurally limit the claimed jar body structure applicant considers as the scope of the claimed invention, in contrast, see claim 23 for a positive structural limitation of the jar which limits its use with such a base blender.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6, and 9-12, 19, 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Hall 6332706.

The claims 1-14 point out a subcombination to a jar with features directed to ends and a body with a cross section. The Hall reference discloses, figures 7- 9, a jar with a body having smaller cross section area and increased cross section curved areas leading from the smaller cross section area. Note that the jar may be used to blend

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materials and may be used upon a base having a motor, and may be used to contain a metal knife if placed in the vessel.

3. Claims 1-7, and 9-13, 19-20, 22, are rejected under 35 U.S.C. 102(b) as being anticipated by Santicola 1219491.

The reference discloses, a jar 5 with a body having smaller cross section area and increased cross section curved areas leading from the smaller cross section area see bottom portion of the body near end 8 and the top portion of the body near the lid 6 note that the area near the attachment of the handle 40, just below the lid 6 has a smaller cross sectional area.

With regards to claim 23, whereas the diameter of the blades 34 is deemed as being substantially equal to the reduced section as clearly seen in figure 1 to a person having ordinary skill in the art.

4. Claims 1, 8-9, 15-17, 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Hartwig et al 3172441.

The reference discloses, a jar 1 with a body having smaller cross section area at the neck 4 and increased cross section curved areas leading from the smaller cross section area 4 along the ribs see figure 1.

With regards to claims 16-17 note that the rib forms a curved profile section and a outward curvature at the top of the rib transition to the outer wall.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davidson Des.386357 in view of Hall 6332706.

The Davidson reference discloses a blender jar for use inherently with a base and motor in which the jar has a knife, inward ribs and a handle.

The Davidson reference discloses all of the recited subject matter as defined within the scope of the claims with the exception of having a reduced cross section and curved direction from the ends to the smaller reduced cross section as pointed out in the claims.

The Hall reference discloses a shape of a jar which is curved and has a reduced cross section between larger curved cross section, as seen in figures 7-9. Such a shape of a container jar vessel is old and well known, and has been given commonly known names as decanter, or flask is description. Thus it can be deemed that a jar which is curved and has a reduced cross section between larger curved cross section is old and well known. It has been held that, absent any unexpected result, a mere change in form or shape on the basis of suitability is a matter of obvious mechanical design choice. In re Dailey, 149 USPQ 47 (CCPA 1976). Accordingly, it is deemed that it would have been obvious to one of ordinary skill in the art to modify the shape of the container jar body to a commonly known jar shape as such as shown by figures 7-9 so

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that the device may better hold the fluid, better provide a container wall to dispense the fluid, or provide a more visually aesthetic jar.

With regards to the relative size of the knife to the cross sectional area, it is well known in the art that the diameter size of the rotor is an effective variable in the amount of fluid kinetic momentum transfer to the fluid from the rotor for processing, accordingly, it is deemed that without undue experimentation, it would have been obvious to one of ordinary skill in the art to modify the size of the rotor to a size substantially the equal to the size of the reduced cross section of the jar in order to optimize the fluid flow, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

Conclusion


7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hippen et al Des 390416, Lai 6568843, Nissman 3315946, Zeff 3843521, Coverstone 1580778, Tunac 5075234, Knees 4301717, .Boyle et al D483994, and D487213, Thackray D437731 and Leverrier D 373504.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony G. Soohoo whose telephone number is (571) 272 1147. The examiner can normally be reached on 7:00 AM - 5:00 PM, Tues. - Fri..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Tony G Soohoo
Primary Examiner
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